

Exhibit C

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 CASE NO. 1:19-cv-1445-LGS

4 BILL WISSEN,
5 Plaintiff,
6 vs.
7 VOX MEDIA,
8 Defendant.

9
10 One Biscayne Tower
11 2 South Biscayne Boulevard
12 Suite 2250
13 Miami, Florida
14 Wednesday, August 21, 2019
15 11:48 a.m. to 12:40 p.m.

16 DEPOSITION OF OLEE FOWLER

17
18
19
20 Taken on behalf of the Plaintiff before Carol Hill
21 Weng, FPR, RMR, CRR, CMRS, CPE, CRI, a Notary Public in
22 and for the State of Florida at Large, pursuant to
23 Plaintiff's Notice of Taking Deposition in the above
24 cause.

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1 APPEARANCES:

2 On behalf of Plaintiff:

3 JAMES FREEMAN, ESQ. (via telephone)

4 Liebowitz Law Firm, PLLC

5 11 Sunrise Plaza, Suite 305

6 Valley Stream, New York, 11580

7 JF@LiebowitzLawFirm.com

8

9 On behalf of Defendant:

10 RACHEL F. STROM, ESQ.

11 Davis Wright Tremaine LLP

12 1251 Avenue of the Americas

13 21st Floor

14 New York, New York 10020

15 rachelstrom@dwt.com

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1 A. Yes.

2 Q. Do you believe that you saw the
3 article before preparation for today's
4 deposition?

5 A. I don't remember.

6 Q. Let's mark as Exhibit F the number --
7 I'm sorry, the document Bates stamped number
8 Vox32 through Vox48. It's an April 16, 2016
9 e-mail.

10 (E-mail, 4/16/2016 was marked as
11 Exhibit F for identification.)

12 A. It's in front of me.

13 Q. And this is an e-mail from JennyLee
14 Molina to you dated April 16, 2016?

15 A. Yes.

16 Q. And you recognize this document?

17 A. Yes.

18 Q. What is this document or what is she
19 asking here?

20 A. She is sending me information on the
21 brunch at Ariete and wanting to see if I would
22 like to come try it.

23 Q. Now, if you flip through the following
24 pages, do you see there that there is
25 photographs of cuisine?

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1 A. Yes.

2 Q. Is it your understanding that these
3 photographs are of cuisine that's offered at the
4 Ariete restaurant?

5 A. Yes.

6 Q. Do you recall whether you ever
7 published any of these images?

8 A. I don't remember.

9 Q. Was it your understanding that you had
10 had the authority to publish one of these images
11 because she sent them to you?

12 A. Yes, that would be my understanding.

13 Q. That would be your understanding.

14 Typically, if a restaurant owner sends
15 you a press release which contains photographs,
16 is it your understanding that you, working on
17 behalf of Vox, have permission to post those
18 photographs to the Eater website?

19 A. That is my general understanding.

20 Q. Do you recall whether you attended
21 this brunch?

22 A. I don't remember.

23 Q. Let's mark next Exhibit G.

24 MR. FREEMAN: Rachel, this is the
25 Facebook post. It's not Bates stamped but

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1 So you're the author of this article,
2 correct?

3 A. Yes.

4 Q. And you're the author of the text of
5 the article, correct?

6 A. Yes.

7 Q. And you'll see here on the document
8 marked BW_024 there's a photograph of roasted
9 oysters.

10 Do you see that?

11 A. Yes.

12 Q. Were you the individual responsible
13 for obtaining this photograph?

14 A. I don't remember.

15 Q. Would you have -- would there be
16 anyone else who contributed to this article,
17 besides you?

18 A. Possibly. I have other contributors
19 for the site.

20 Q. So you're saying that it's possible
21 that you drafted the text and then someone else
22 at Vox inserted the photographs?

23 A. I'm saying there's a possibility. I'm
24 not saying that's what happened.

25 Q. Do you have any specific recollection

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1 identification of individual's knowledge of
2 this article.

3 MS. STROM: I'll just state for the
4 record that she said it's a possibility that
5 someone else did it, not that that's what
6 happened. And so I'll object to the
7 insinuation that there's a gap, but yes, we
8 can follow up after.

9 MR. FREEMAN: Okay.

10 Q. So with this particular photograph
11 here on the page marked BW_024, the photograph
12 of the oysters.

13 Do you see that?

14 A. Yes.

15 Q. You're saying that you have no
16 recollection of where this photograph came from?

17 A. I have no recollection of where the
18 photo came from.

19 Q. And -- but you're also saying it's
20 possible that you did publish this photograph?
21 You just don't remember?

22 A. I don't remember.

23 Q. Is it typical for you to publish
24 photographs along with articles that you write
25 the text for?

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1 A. Yes. That is typical.

2 Q. That's done but you're saying not
3 always?

4 A. Not always.

5 Q. Do you see underneath the picture of
6 the oysters it says "Ariete Facebook" -- I'm
7 sorry, "Ariete/Facebook"?

8 A. Yes.

9 Q. What is your understanding of that
10 credit?

11 A. My understanding of that credit is
12 that the image came from Facebook.

13 Q. Okay. So let's just go back to
14 Exhibit G, that's the Facebook exhibit.

15 A. Yes.

16 Q. Is it your understanding, looking at
17 this, that the photograph that's published to
18 the Eater.com website was obtained from
19 Exhibit G, which is the Facebook.com website?

20 A. I don't know because I can't click
21 that link.

22 Q. Right.

23 But based on your experience, given
24 that the photograph published in Eater.com says
25 "Ariete/Facebook," is it your understanding that

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1 this photograph was obtained from Ariete's
2 Facebook page?

3 A. Yes.

4 Q. Okay. And do you know whether this
5 photograph on the Eater.com website, I'm
6 thinking of the photograph with the oysters, do
7 you know whether that was distributed to you by
8 the restaurant?

9 A. I don't remember.

10 Q. Do you have any e-mails from
11 Ms. Molina where she sent you this particular
12 photograph of the oysters?

13 A. I don't have a specific e-mail with
14 this image in it.

15 Q. And did you ever speak to Ms. Molina
16 by telephone?

17 A. Ever in my life?

18 Q. From the period 2016 to 2017.

19 A. Have I ever spoken -- yeah. I've
20 spoken to her since 2016.

21 Q. Okay. Did you obtain permission from
22 Ms. Molina to use this photograph of the oysters
23 on Eater.com?

24 A. I don't remember.

25 Q. Had you obtained permission to publish

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1 this photograph to Eater.com website, would you
2 have asked for that permission via e-mail?

3 A. Not necessarily.

4 Q. You're saying that you -- you're
5 saying that it's plausible you would have phoned
6 Ms. Molina and asked whether or not you had
7 permission to republish this photograph?

8 A. That's plausible, yes.

9 Q. But you're not aware of any
10 documentation or any e-mail where Ms. Molina
11 gave you permission to republish the photograph
12 of the oyster to Eater.com?

13 A. Not to my knowledge.

14 Q. And is it your recollection that this
15 photograph of the oysters on the Eater.com
16 website, is it your recollection that this
17 photograph was distributed to you via a press
18 release?

19 A. I don't remember.

20 Q. You don't remember, okay.

21 Let's mark as Exhibit I the document
22 stamped Vox52 to -55.

23 MS. STROM: We only have -52 to -54.

24 MR. FREEMAN: That's fine. -55 is
25 just a signature page. That's fine.

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1 CERTIFICATE OF OATH OF WITNESS
2

3 STATE OF FLORIDA)
4 COUNTY OF MIAMI-DADE) SS.

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6 I, Carol Hill Weng, FPR, RMR, CRR, CMRS, CRI, CPE,
7 Notary Public in and for the State of Florida at Large,
8 certify that the witness, Olee Fowler, personally
9 appeared before me on August 21, 2019, and was duly
10 sworn by me.

11 WITNESS my hand and official seal this August 30,
12 2019.

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15 

16 Carol Hill Weng, FPR, RMR, CRR, CMRS,
CRI, CPE

17 Notary Public, State of Florida at Large

18 Notary No.: FF 958116

19 My Commission Expires: March 4, 2020

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1 REPORTER'S DEPOSITION CERTIFICATE
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3 I, Carol Hill Weng, FPR, RMR, CRR, CMRS, CPE, CRI,
4 certify that I was authorized to and did
5 stenographically report the deposition of Olee Fowler,
6 the witness herein on August 21, 2019; that a review of
7 the transcript was requested; that the foregoing pages
8 are a true and complete record of my stenographic notes
9 of the deposition of said witness; and that this
10 computer-assisted transcript was prepared under my
11 supervision.

12 I further certify that I am not a relative,
13 employee, attorney or counsel of any of the parties,
14 nor am I a relative or employee of any of the parties'
15 attorney or counsel connected with the action.

16 DATED this August 30, 2019.
17

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19 Carol Hill Weng, FPR, RMR, CRR
CMRS, CPE, CRI
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